

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 02-7788**

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COOLIDGE FRANK ELLIS,

Petitioner - Appellant,

versus

LARRY JARVIS, Warden; BLAND CORRECTIONAL  
CENTER,

Respondents - Appellees.

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Appeal from the United States District Court for the Western  
District of Virginia, at Roanoke. Jackson L. Kiser, Senior District  
Judge. (CA-02-914-7)

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Submitted: March 24, 2003

Decided: April 17, 2003

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Before NIEMEYER, MOTZ, and TRAXLER, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Coolidge Ellis, Appellant Pro Se.

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Unpublished opinions are not binding precedent in this circuit.  
See Local Rule 36(c).

PER CURIAM:

Coolidge Frank Ellis, a state prisoner, seeks to appeal the district court's order denying relief on his 28 U.S.C. § 2254 (2000) petition. An appeal may not be taken from the final order in a habeas corpus proceeding unless a circuit justice or judge issues a certificate of appealability. See 28 U.S.C. § 2253(c)(1) (2000). When, as here, a district court dismisses a § 2254 petition solely on procedural grounds, a certificate of appealability will not issue unless the petitioner can demonstrate both "(1) 'that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right' and (2) 'that jurists of reason would find it debatable whether the district court was correct in its procedural ruling.'" Rose v. Lee, 252 F.3d 676, 684 (4th Cir.) (quoting Slack v. McDaniel, 529 U.S. 473, 484 (2000)), cert. denied, 534 U.S. 941 (2001). We have independently reviewed the record and conclude that Ellis has not made the requisite showing. See Miller-El v. Cockrell, \_\_\_ U.S. \_\_\_, 2003 WL 431659, at \*10 (U.S. Feb. 25, 2003) (No. 01-7662). In particular, we find that Ellis failed to properly seek permission from this court to file a successive petition pursuant to 28 U.S.C. § 2244 (2000). To the extent that Ellis raises the issue of authorization from this court for relief under § 2254, he has failed to file a § 2244 application and this court did not consider the Statement of Facts dated September 30, 2002, to be such.

Accordingly, we deny a certificate of appealability and dismiss the appeal. See 28 U.S.C. § 2253(c) (2000). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED